

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEREMIAH BOURGEOIS

Petitioner,

v.

BERNARD WARNER, *et al.*,

Respondents.

Case No. C13-1070-JCC-JPD

REPORT AND RECOMMENDATION

On June 21, 2013, petitioner Jeremiah Bourgeois presented to this Court for filing a petition for writ of habeas corpus under 28 U.S.C. § 2254 seeking relief from the mandatory life without parole sentence imposed following his 1993 King County Superior Court conviction on charges of aggravated murder and first degree assault. Petitioner argued in his petition that his sentence had been rendered unconstitutional by the United States Supreme Court's ruling in *Miller v. Alabama*, 132 S. Ct. 2455 (2012). Petitioner submitted with his petition a motion to stay and abey this federal habeas action to allow him to pursue his constitutional challenge to his sentence in the state courts. (Dkt. 3.) On October 22, 2013, this Court issued an Order staying

1 this action pending final resolution of petitioner's personal restraint petition in the Washington
2 Supreme Court. (Dkt. 20.)

3 On February 9, 2015, petitioner filed a motion to voluntarily dismiss his federal habeas
4 petition. (Dkt. 29.) Petitioner indicates therein that the King County Superior Court, on June 20,
5 2014, vacated the life without parole sentence imposed for a murder committed when petitioner
6 was a juvenile and imposed an indeterminate life sentence with a 25 year minimum. (*Id.*)
7 Respondent has filed no response to petitioner's motion to dismiss. As it appears that
8 petitioner's federal habeas petition is now moot, this Court recommends that petitioner's motion
9 to dismiss his petition be granted.

10 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
11 served upon all parties to this suit by no later than **April 1, 2015**. Failure to file objections
12 within the specified time may affect your right to appeal. Objections should be noted for
13 consideration on the District Judge's motion calendar for the third Friday after they are filed.
14 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
15 timely objections are filed, the matter will be ready for consideration by the District Judge on
16 **April 3, 2015**.

17 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
18 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
19 assigned District Judge acts on this Report and Recommendation.

20 DATED this 18th day of March, 2015.

21 
22 JAMES P. DONOHUE
23 United States Magistrate Judge